IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4855 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

HS BROTHERS (RASIK PRINTERY) PVT LTD

Versus

GOVINDLAL SHANKARLAL PRAJAPATI

Appearance:

MR KM PATEL for Petitioner

MR MUKESH H RATHOD for Respondent No. 1

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 10/01/2001

ORAL JUDGEMENT

1. Heard the learned counsel for the respective parties.

2. Rule and notice as to interim relief was issued

on 16.9.1999 and ad-interim relief was also granted. The matter is listed today for hearing on the question of interim relief. By consent of the learned counsel for the parties, matter is taken up for final hearing immediately.

3. The Labour Court has recorded a clear finding that the respondent workman had voluntarily abandoned the service and had set up his own printing press and hence, he was not entitled to be reinstated. However, the Court has directed the petitioner - employer to pay Rs. 39,150/- as notice pay and retrenchment compensation. The learned counsel for the petitioner contended that in view of the clear finding recorded by the Court that the workman had himself abandoned the service, the direction for paying notice and retrenchment compensation could not have been given by the Court. This could not be disputed by the learned counsel for the respondent. The learned counsel for the petitioner states that the petitioner will pay the amount of gratuity due and payable in accordance with law. However, learned counsel for the petitioner submits that the last drawn salary of the respondent was Rs. 1086.50ps. and not Rs. 1450/- as referred to in the judgement of the Court and he submits that the petitioner will pay gratuity on the basis of Rs. 1086.50ps. as the last drawn salary of the respondent. The petition is, therefore, allowed and the direction in the award of the Labour Court to pay Rs. 39,150=00 as notice pay and retrenchment compensation is set aside. The petitioner shall, however, pay the amount of gratuity due and payable in accordance with law on the basis of Rs. 1086.50ps. as the last drawn salary within two months from today. However, it will be open to the respondent to take appropriate proceedings for recovering the difference if his case is that the last drawn salary was higher than Rs. 1086.50ps. Rule is made absolute to the said extent.

(M. C. Patel, J.)
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